

HOUSE BILL NO. 331

INTRODUCED BY GALLUS, DEPRATU, GRIMES, LAWSON, B. RYAN, TESTER, YOUNKIN

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING CRIMINAL OFFENSES RELATING TO THEFT OF RENTED OR LEASED PERSONAL PROPERTY; CHANGING THE TIME AFTER WHICH THEFT FOR FAILURE TO RETURN OR PAY FOR RENTED OR LEASED PERSONAL PROPERTY OCCURS FROM 48 HOURS AFTER THE RENTAL PAYMENT OR THE RETURN OF THE PROPERTY IS DUE TO 2 BUSINESS DAYS AFTER THE RENTAL PAYMENT OR THE RETURN OF THE PROPERTY IS DUE; CHANGING THE OFFENSE FROM A CRIMINAL OFFENSE TO A CIVIL OFFENSE; REVISING THE PENALTY FOR THE OFFENSE; AMENDING SECTION 45-6-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-6-309, MCA, is amended to read:

"45-6-309. Failure to return or pay for rented or leased personal property. (1) A person commits the CIVIL offense of failure to return or pay for rented or leased personal property if, without notice to and permission of the lessor, the person ~~purposefully~~ and knowingly fails to return the property or to fully pay any amount IN EXCESS OF \$250 THAT IS due within ~~48 hours~~ 2 business days after the time provided for return or payment in the rental agreement, ~~provided that~~. This subsection is not violated unless clear written notice, ~~in bold print~~, of the date and time when return of the property is required must be returned and the amount due must be paid and of the CIVIL penalty ~~prescribed~~ provided in this section is stated in the rental or lease agreement.

(2) Presentation to the lessor by the lessee of identification or information that is false for the purpose of obtaining a rental or lease agreement constitutes prima facie evidence of, but is not a prerequisite to, commission of the CIVIL offense.

~~(3) After the rental or lease period specified in the rental or lease agreement has expired, failure to return rented or leased personal property within 72 hours of written demand by the lessor, sent by certified mail to the renter or lessee at the address given at the time of entering the rental or lease agreement, constitutes prima facie evidence of commission of the offense.~~

~~(4)~~(3) (a) A person ~~convicted of failure~~ WHO FAILS to return rented or leased personal property not exceeding \$1,000 in value or failure FAILS to pay rental or lease fees due in an amount EXCEEDING \$250 BUT not

1 ~~exceeding \$1,000 shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term~~
2 ~~not to exceed 6 months, or both. IS SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED \$1,500.~~

3 (b) A person ~~convicted of failure~~ WHO FAILS to return rented or leased personal property exceeding
4 \$1,000 in value ~~or failure~~ FAILS to pay rental or lease fees due in an amount exceeding \$1,000 ~~shall be fined an~~
5 ~~amount not to exceed \$1,000 or be imprisoned in the state prison~~ COUNTY DETENTION CENTER for a term not to
6 ~~exceed 10 years 12 MONTHS, or both~~ IS SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000."

7
8 NEW SECTION. SECTION 2. INSTRUCTION TO CODE COMMISSIONER. THE CODE COMMISSIONER SHALL
9 RENUMBER 45-6-309 AS AN INTEGRAL PART OF TITLE 30, CHAPTER 19, AND SHALL MAKE ANY OTHER CHANGES
10 NECESSITATED BY THE RENUMBERING.

11
12 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

13 - END -